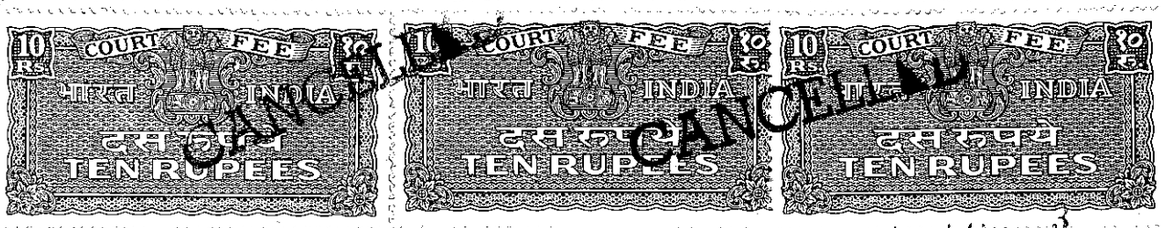

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

W.P.....2616...../2003

PETITIONER : KISHORE KUMAR CHANDRA
S/O. LATE H.S. CHANDRA
Age - 29 yrs.
Address : Santoshi Nagar, Raipur
Raipur (Chhattisgarh).

VERSUS

RESPONDENTS :

(1) State of Chhattisgarh
Through its Secretary, Department of
Cooperative, Marketing, Federation
Civil Line, Raipur [C.G.]

(2) State of Madhya Pradesh
Through its Secretary
M.P. Cooperative Markting
Federation Department of
Cooperation & Civil Administration,
Jahangirabad, Bhopal [M.P.]

(3) Managing Director
Marketing Federation
Department of M.P. State
Cooperative Limited, Jahangirabad,
Bhopal [M.P.]

(4) Managing Director
Chhattisgarh State Cooperative
Marketing Federation Limited
Raipur [C.G.]

(5) General Manager (G.M.)
Establishment, M.P. State
Cooperative Marketing Federation
Jahangirabad, Bhopal [M.P.]

(6) General Manager (G.M.)
Establishment, C.G.. State
Cooperative Marketing Federation
Civil Line, Raipur [C.G.]

(7) Registrar
Cooperative Societies,
Near Indira Gandhi Krishi V.V.,
Raipur [C.G.]

P. R. No. - 3285/03
Presented by Shri D.N. Nimje
dated 06.08.03

शपथ आयुक्त
एम.के. शुक्ला
बिलासपुर तहसील कोर्ट
6/8/03

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(Contd.2)

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION NO. 2616 OF 2003

Kishore Kumar Chandra

Vs.

State of Chhattisgarh and Others

O R D E R
(Dated 20th December, 2005)

A.F.S.

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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION NO. 2616 OF 2003

Kishore Kumar Chandra

Vs.

State of Chhattisgarh and Others

Shri Jitendra Nath Nande, counsel for the petitioner.

Shri A.S. Kachhawaha, Dy. Govt. Advocate, for the State of Chhattisgarh.

Shri Ghanshyam Patel, counsel for respondents No.3 & 5.

Dr. N.K. Shukla, Sr. Advocate with Shri Dilip Dubey, counsel for respondents No. 4 & 6.

ORDER
(Dated 20th December 2005)

Per Hon. Shri Fakhruddin, J:

Heard.

2. By this petition under Article 226/227 of the Constitution of India the prayer sought for is the compassionate appointment consequent upon the death of father of the petitioner who died on 14-12-2000.

3. It is submitted that the petitioner's father was serving as Accounts Officer in M.P./C.G. State Co-operative Marketing Federation, District Office, Dhamtari. It is further submitted that on formation of new State of Chhattisgarh options regarding allocation of services were asked from the employees wherein the petitioner's father opted for State of Madhya Pradesh and sent his option in the prescribed format, but till the time of his death he did not receive any allocation order. It is also submitted that the petitioner is a well educated and qualified person who has obtained degree in Master of Commerce in the year 1997 from Pt. Ravi Shankar Shukla University, Raipur and has also taken training in Accountancy from the

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Chhattisgarh Chamber of Commerce, Raipur. Learned counsel submits that the petitioner applied for grant of appointment on compassionate ground vide Annexure-P/4. Thereafter vide memo dated 27-7-2001 (Annexure-P/5), the petitioner was asked by the General Manager of M.P. State Co-operative Marketing Federation, Bhopal regarding the willingness of the petitioner to serve in the M.P. State Co-operative Marketing Federation, Bhopal. Vide Annexure-P/6 the petitioner submitted his consent to serve in the State of Madhya Pradesh. Learned counsel submits that thereafter vide letter dated 24-9-2001 the Secretary of M.P. State Co-operative Marketing Federation informed the petitioner that his father could not join in the State of Madhya Pradesh as per the allocation order, because he died on 14-12-2000 while he was in the service of Chhattisgarh Marketing Federation, therefore, his services will be considered in the Chhattisgarh Marketing Federation. After receipt of the said communication, the petitioner moved an application by mentioning all the aforesaid facts before the Secretary of Chhattisgarh Marketing Federation, Raipur on 4-10-2001 (Annexure-P/8) and requesting him for grant of appointment on compassionate ground. It is submitted that the Deputy Registrar wrote a letter dated 10-1-2002 (Annexure-P/9) to the Secretary, Chhattisgarh State Marketing Federation regarding the provisions of compassionate appointment of the petitioner. In the said letter, the Deputy Registrar clarified that the Board of Director is competent to take steps for grant of appointment on compassionate ground to the petitioner. It is also submitted that thereafter the petitioner as well as his mother repeatedly made requests before the authorities vide Annexure-P/10, 10A, 10B & 10C for grant of compassionate appointment as they were facing financial

hardship after the death of the father of the petitioner but no action has been taken by the authorities. 77

4. The Chhattisgarh Cooperative Marketing Federation raised an objection about the maintainability of the petition and stated that the petitioner's father had submitted an option for allocation of his services to the Madhya Pradesh Cooperative Marketing Federation Limited which was allowed and the services of the petitioner's father were allocated to the Madhya Pradesh Cooperative Marketing Federation vide order dated 13/12/2000 and therefore he shall be deemed to be an employee of Madhya Pradesh Cooperative Marketing Federation, as such, it is for the Madhya Pradesh Cooperative Marketing Federation to give an appointment on compassionate ground as per rules and not Chhattisgarh Cooperative Marketing Federation.

5. The Madhya Pradesh Cooperative Marketing Federation filed its reply and stated that since petitioner's father was serving as Accounts Officer in the State of Chhattisgarh and posted at Dhamtari under the Chhattisgarh Cooperative Marketing Federation, as such the Government of Madhya Pradesh has directed the petitioner to approach the Chhattisgarh Cooperative Marketing Federation. It is submitted that the decision of the Government of Madhya Pradesh is binding upon the Madhya Pradesh Cooperative Marketing Federation and so the petitioner who had earlier moved an application before the Chhattisgarh Cooperative Marketing Federation has been directed to approach the said authority. It is further submitted that as per the Employees Service Rules (Annex.R/3(1) approved by the Registrar, Co-operative Societies, which are applicable and governed the service conditions of the employees of the Madhya Pradesh

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Cooperative Marketing Federation, compassionate appointment can be provided only on vacant regular posts and it cannot be made on vacant posts reserved for other categories. It is also submitted that the petitioner belongs to General category and as per his educational qualification he qualifies for the post of Field Assistant and presently there is no vacant post of Field Assistant available with the Madhya Pradesh Cooperative Marketing Federation for General category.

6. On perusal of the record, it is borne out that the petitioner's father, namely, late Shri H.S. Chandra was an employee of State Cooperative Marketing Federation. He was posted as Accounts Officer at Dhamtari. On reorganization and formation of the State, he opted for State of Madhya Pradesh. The allocation order was passed on 13/12/2000 and he was directed to join on or before 20/12/2000. Before receiving the said allocation order, the petitioner's father died on 14/12/2000. The stand taken by the Madhya Pradesh State Marketing Cooperative Federation is that the petitioner's father was not relieved and he died prior to his relieving, therefore, the case of the petitioner relating to compassionate appointment is to be considered by Chhattisgarh State Marketing Cooperative Federation. This communication was sent to the petitioner vide letter dated 14/2/2003 (Annexure-P/12) by the Government of Madhya Pradesh. The Madhya Pradesh State Marketing Cooperative Federation has come out with the return that they tried to adjust the petitioner but the post is not available whereas Chhattisgarh State Marketing Federation has not at all considered the matter and on the other hand raised a preliminary objection that the father of the petitioner was not an employee of the Chhattisgarh State Marketing Cooperative Federation and will be deemed to be an employee of Madhya Pradesh State Marketing Cooperative Federation. It is pertinent to

note here that the petitioner's father had not received the order nor he was relieved. Even otherwise, all the dues have been paid by the Chhattisgarh State Marketing Cooperative Federation to the family members of the deceased employee. The eligibility of the petitioner for getting compassionate appointment is also not disputed by both the Federations. The net result is that the petitioner has not been able to get any employment either from Madhya Pradesh or Chhattisgarh. It is also pertinent to mention here that Chhattisgarh State Marketing Cooperative Federation referred the matter to the Joint Registrar, Cooperative Societies and the Joint Registrar as per the communication dated 10/1/2002 (Annexure-P/9) has taken a view that under the Rules the Board of Directors is competent to proceed in the matter. The State of M.P. as per Annexure-P/12 dated 14/2/2003 has also taken a view that although the services of late Shri H.S. Chandra had been allocated from Chhattisgarh to Madhya Pradesh, but he died prior to his relieving, therefore, the case of the petitioner relating to compassionate appointment is to be considered by the Chhattisgarh State Marketing Cooperative Federation. Under the facts and circumstances appearing from the record, in the opinion of this Court, the objection raised by the Chhattisgarh Cooperative Marketing Federation that the Chhattisgarh Cooperative Marketing Federation is not liable for grant of compassionate appointment to the petitioner has no force. As such it is rejected.

7. It is appropriate to state that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden

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financial crisis. The claims are to be considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service.

8. Having considered the facts and circumstances of the case, material on record and in view of the fact that the petitioner's father died while he was serving in the Chhattisgarh State Cooperative Marketing Federation, though his services had been allocated from State of Chhattisgarh to State of Madhya Pradesh but the allocation order was not communicated nor it was given effect to and the order itself stipulated the joining period up to 20-12-2000, till he is duly relieved he continued to be on the rolls of the State of Chhattisgarh till his death and further the fact that the payment of dues has also been made to the family members of the deceased employee by the Chhattisgarh State Cooperative Marketing Federation and also the fact that the Secretary of M.P. State Cooperative Marketing Federation informed the petitioner that his father could not join in the State of Madhya Pradesh as per the allocation order and died on 14-12-2000 while he was in service of Chhattisgarh State Cooperative Marketing Federation, his case will be considered by the Chhattisgarh Marketing Federation, therefore, the petitioner is entitled for appointment on compassionate ground and the respondent Chhattisgarh State Cooperative Marketing Federation is directed to consider and pass appropriate orders as early as possible preferably within a period of thirty days from the date of receipt/production of copy of this order.

9. With the aforesaid observations and directions, the petition is allowed with costs. Counsel fee Rs.2,000/-, if certified.

Sdl-
Fakhruddin
Judge

Gowri/H-